

BILL NO. G-71-01-10 (Amended)

GENERAL ORDINANCE NO. G- 104-71

AN ORDINANCE requiring licenses for outdoor drive-in theaters, providing for suspension of said licenses, prohibiting the exhibition of nude or semi-nude pictures on theater screens within view of public street or highway and providing penalties, and repealing all parts of ordinances in conflict herewith.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. It shall be unlawful for any person to construct, operate or maintain a theater within the City without having a valid license therefor in force and effect under the terms and provisions of this ordinance.

SECTION 2. It shall be unlawful for any licensee, ticket seller, ticket taker, motion picture machine operator or any other person connected with or employed by any licensee to show or exhibit at an outdoor drive-in theater, in the City, or to aid or assist in such exhibitions any motion picture, slide, or other exhibit which is visible from any public street or highway in which bare buttocks or the bare female breasts of the human body are shown or in which strip-tease, burlesque or nudist-type scenes constitute the main or primary material of such movie, slide or exhibit.

SECTION 3. "Outdoor drive-in theater" as used in this ordinance shall be an open lot, an open area, or other parcel of land, or part thereof, with its appurtenant facilities, devoted primarily to showing of moving pictures, motion pictures, or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

SECTION 4. Application for license issued hereunder shall be made upon blank forms to be prepared and made available by the City Controller and shall state:

- (a) The name and business address of the applicant and the address where such outdoor drive-in theater is located or is proposed to be located.
- (b) The number of automobiles and/or patrons which the outdoor drive-in theater is designed to accommodate.

- (c) The hours of operation of said theater.
- (d) The general character of the performances to be given.

SECTION 5. An application for license hereunder shall be accompanied by a license fee of \$25.00 to defray the expense of issuance of license, which fee shall be returned to the applicant if the license is not issued. Any license issued hereunder shall be renewable on the 1st day of January of each succeeding year after the date of issuance upon the payment of a renewal fee of \$10.00 to defray the expense of renewal of license, which fee shall be returned to the applicant if the license is not issued.

SECTION 6. Within fifteen days after receipt of an application as provided herein, the City Controller shall issue or renew a license hereunder when he finds:

- (a) That the applicant is capable of operating the proposed business in a manner consistent with public safety; and
- (b) That the requirements of this ordinance and of all other governing laws and ordinances have been met.

SECTION 7. Any person violating Section 1 of this ordinance shall be punished by a fine not to exceed \$300.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment.

SECTION 8. Any person violating Section 2 of this ordinance shall be punished by a fine not to exceed \$300.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment. Upon conviction of any person for violating Section 2 of this ordinance, the Court shall recommend to the Mayor the suspension of the license provided for in Section 1 of this ordinance and relating to the outdoor drive-in theater at which the violation of Section 2 of this ordinance occurred for a period not to exceed thirty (30) days and the Mayor thereupon shall comply with such recommendation, and should the Court fail to make such recommendation, the Mayor shall suspend the license, provided for in Section 1 of this ordinance and relating to the outdoor drive-in theater at which the violation of Section 2 of this ordinance occurred, for a period of thirty (30) days.

SECTION 9. Each word, phrase, paragraph and section of this ordinance is hereby declared to be an individual section or provision, and the holding of any word, phrase, paragraph or section to be void, ineffective or unconstitutional for any cause whatsoever, shall not be deemed to affect any other word, phrase, paragraph or section thereof or the application of any word, phrase, section or paragraph to circumstances or facts not connected with such holding.

SECTION 10. All ordinances or parts of ordinances in conflict herewith shall be, and they hereby are, repealed to the extent of such conflict.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication as provided by law.



Councilman

APPROVED AS TO FORM
AND LEGALITY, 

CITY ATTORNEY

Read the first time in full and on motion by _____ seconded by _____ and duly adopted, read the second time by title and referred to the (Committee on) _____ (and to the City Plan Commission for recommendation) (and Public Hearing to be held after due legal notice, at the Council Chambers, City Hall, Fort Wayne, Indiana, on _____ the _____ day of _____ 196 ____, at _____ o'clock P.M., E.S.T.

Date: _____ City Clerk

Read the third time in full and on motion by Tipton seconded by Dunifon and duly adopted, placed on its passage.

Passed (~~LOST~~) by the following vote:

AYES	<u>8</u>	NAYS	<u>0</u>	ABSTAINED	____	ABSENT	<u>1</u>	to-wit:
Adams	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Dunifon	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Fay	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Geake	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Nuckols	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Robinson	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Rousseau	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	<input checked="" type="checkbox"/>	
Steigerwald	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	
Tipton	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____	_____	

Date 1-26-71 Harold S. Brachoom
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(Zoning Map)~~ (General) (Annexation) (Special) (Appropriation) Ordinance (~~Resolution~~) No. 2104-71

on the 26th day of January, 196 71.

ATTEST:

(SEAL)

Harold S. Brachoom
City Clerk

Phil A. Steigerwald
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of January, 196 71 at the hour of 8:30 o'clock A.M., E.S.T.

Harold S. Brachoom
City Clerk

Approved and signed by me this 27 day of January, 196 71 at the hour of 1:28 o'clock P.M., E.S.T.

Harold S. Zeis
Mayor

Bill No. G-71-01-10 as amended

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance
requiring licenses for outdoor drive-in theaters, providing for suspension of said
licenses, prohibiting the exhibition of nude or semi-nude pictures on theater screens
within view of public street or highway and providing penalties,

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance do PASS. as amended

HERBERT G. TIPTON, Chairman

JACK K. DUNIFON, Vice-Chairman

THOMAS G. ADAMS

WILLIAM K. GEAKE

JOHN H. ROBINSON

Herbert G. Tipton
Jack K. Dunifon
Thomas G. Adams
William K. Geake
John H. Robinson

CONCURRED IN

DATE 1-26-71 FUAD G. BONAHOOM, CITY CLERK



City of Fort Wayne

DEPARTMENT OF LAW
1120 Lincoln Tower

J. Robert Arnold, City Attorney

Associate City Attorneys:

Philip A. Davidson

David R. Heston

G. Stanley Hood

Robert E. Meyers

William L. Wilks

January 26, 1971

Common Council of the City of Fort Wayne
City Hall
Fort Wayne, Indiana 46802

Re: Drive-in Movie Ordinance
Bill No. G-71-01-10 (Amended)

Gentlemen and Mrs. Fay:

As you know, this bill was drafted by Kenneth Watterman, the attorney for People Opposed to Pornography. It is based on an ordinance of Grand Prairie, Texas, which was upheld by the Federal Circuit Court of Appeals for the Fifth Circuit in the Chemline case.

Because of this Chemline decision I have felt legally justified in raising no legal objection to the introduction of this bill in the common council. We would be deceiving ourselves, however, to assume that the Chemline case has definitely settled the constitutionality of such an ordinance.

No Circuit Court of Appeals decision settles what the United States Supreme Court will do. The Supreme Court spends a good part of its time resolving conflicts among the Circuits. Fort Wayne is in the Seventh Circuit, not the Fifth.

The Chemline case was not appealed to the Supreme Court. But a decision of the same Fifth Circuit in the same month upholding a comparable Dallas drive-in ordinance was appealed.



1/26/71

-2-

(G-71-01-10)

The Supreme Court simply set aside the Fifth Circuit judgment and remanded the case for reconsideration in the light of Supreme Court decisions.

One of the three judges in the Chemline case concurred solely because of very specific and substantial evidence of a traffic hazard caused by the drive-in movie.

The Fifth Circuit had serious doubts about the authority of the city to act in view of the state legislation, but the federal court yielded to a Texas state court decision on this point.

The purpose of this letter is to be sure that if this ordinance is passed and becomes involved in litigation, the Council will not feel that the legal department assured it that the constitutionality of this ordinance had already been established.

If the Council passes the ordinance requested by POP and its attorney it should look to that organization for continued active leadership in litigation to uphold the ordinance. The legal department will of course cooperate fully.

Yours truly,

J. Robert Arnold,
City Attorney

JRA: jmp

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE requiring licenses for outdoor drive-in theaters, providing for suspension of said licenses, prohibiting the exhibition of nude or semi-nude pictures on theater screens within view of public street or highway and providing penalties

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF PORT WAYNE, INDIANA:

SECTION 1. It shall be unlawful for any person to construct, operate or maintain a theater within the City without having a valid license therefore in force and effect under the terms and provisions of this ordinance.

SECTION 2. It shall be unlawful for any licensee, ticket seller, ticket taker, motion picture machine operator or any other person connected with or employed by any licensee to show or exhibit at an outdoor drive-in theater, in the City or to aide or assist in such exhibitions any motion picture, slide, or other exhibit which is visible from any public street or highway in which bare buttocks or the bare female breasts of the human body are shown or in which strip-tease, burlesque or nudist-type scenes constitute the main or primary material of such movie, slide or exhibit.

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- (b) The number of automobiles and/or patrons which the outdoor drive-in theater is designed to accommodate.
- (c) The hours of operation of said theater.
- (d) The general character of the performances to be given.

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(a) That the applicant is capable of operating the proposed business in a manner consistent with public safety; and

(b) That the requirements of this ordinance and of all other governing laws and ordinances have been met.

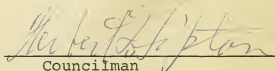
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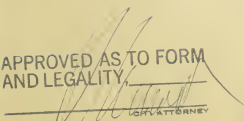
SECTION 9. Each word, phrase, paragraph and section of this ordinance is hereby declared to be an individual section or provision, and the holding of any word, phrase, paragraph or section to be void, ineffective or unconstitutional for any cause whatsoever, shall not be deemed to affect any other word, phrase, paragraph or section thereof or the application of any word, phrase, section or paragraph to circumstances or facts not connected with such holding.

SECTION 10. All ordinances or parts of ordinances in conflict herewith shall be, and they hereby are, repealed to the extent of such conflict.

SECTION 11. This ordinance shall be in full force and effect from and after its passage, approval by the Mayor and publication as provided by law.


Councilman

APPROVED AS TO FORM
AND LEGALITY


CITY ATTORNEY

Read the first time in full and on motion by Tipton seconded by Robinson and duly adopted, read the second time by title and referred to the (Committee on) Regulations (and to the City Plan Commission for recommendation) (and Public Hearing to be held after due legal notice, at the Council Chambers, City Hall, Fort Wayne, Indiana; on the _____ day of _____ 196____, at _____ o'clock P.M., E.S.T.

Date: 1-12-71

Frank G. Bonahoom
City Clerk

Read the third time in full and on motion by _____ seconded by _____ and duly adopted, placed on its passage.
Passed (LOST) by the following vote:

AYES	NAYS	ABSTAINED	ABSENT	to-wit:
Adams	_____	_____	_____	_____
Dunifon	_____	_____	_____	_____
Fay	_____	_____	_____	_____
Geake	_____	_____	_____	_____
Nuckols	_____	_____	_____	_____
Robinson	_____	_____	_____	_____
Rousseau	_____	_____	_____	_____
Steigerwald	_____	_____	_____	_____
Tipton	_____	_____	_____	_____

Date 1-26-71

City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map)(General)(Annexation)(Special)(Appropriation) Ordinance (Resolution) No. 9.

on the 26th day of January, 196 71.

ATTEST:

(SEAL)

City Clerk

Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of January, 196 71 at the hour of 8:30 o'clock A.M.,E.S.T.

City Clerk

Approved and signed by me this _____ day of _____, 196____ at the hour of _____ o'clock _____M.,E.S.T.

Harold S. Zeis
Mayor

To NEWS-SENT INEL Dr

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head	number of lines
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100	100

Tail number of lines

Total number of lines in notice

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COMPUTATION OF CHARGES

174 lines, columns wide equals 288¢ equivalent lines at 50.11 cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

50.11

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type $5\frac{1}{2}$ point

Number of insertions.....2

Size of quad upon which type is cast..... $5\frac{1}{2}$

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 12, 1971

Title Clerk

Legal Notices

Notice is hereby given that on 26th day of January, 1971, the Council of the City of Fort Wayne, Indiana, in a Regular Session, did the following General ordinance, to-wit: Bill No. G-71-01-10 (Amended)

Transmission Of Seru

GENERAL ORDINANCE NO. G-104-16
AN ORDINANCE requiring licenses
for drive-in theaters, providing
for the issuance of said license, prohibiting
the same, now is being transmit-
ted directly from person to per-
son in several ways, says an epi-
demiologist.

Dr. Michael Gregg, chief epidemiologist at the Center for Disease Control,

with a bleeding patient who has a history of serum hepatitis gets blood on her hand. Or she has a cut finger. Unconsciously, she brushes her hand against her nose. Or some of the blood from the patient gets into the cut finger.

against her mouth
the mucous mem
nose, or through
Gregg.

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duly sworn, says
of the
ed and published

DIANA
to is a true copy,
publication being

"Subtle and challenging changes are taking place in the ecology of serum hepatitis over the past two years and the key discovery is that the disease can

"Up until now, serum hepatitis, a liver disease, was believed to follow only from such procedures as blood transfusions or from the use of an unsterile needle in getting shots," he said in an interview.

"We at the CDC have seen epidemics which strongly support the theory that serum hepatitis can be transmitted orally—say, if the nurse brushes her hand

"This is the major change taking place," he said. "One of the reasons it is on the increase is that we see it more now in older persons than in the young, especially in males."

February 19 71

My commission expires March 8, 1974

NOTARIAL PUBLIC

Common Council-City of Ft. Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)	_____
— number of equivalent lines	_____
Head number of lines	_____
Body number of lines	173
Tail number of lines	1
Total number of lines in notice	174

COMPUTATION OF CHARGES

174 lines, _____ columns wide equals _____ equivalent lines at .288¢
cents per line \$ 50.11

Additional charge for notices containing rule or tabular work (50 per cent of above amount) _____

Charge for extra proofs of publication (50 cents for each proof in excess of two) _____

TOTAL AMOUNT OF CLAIM \$ 50.11

DATA FOR COMPUTING COST

Width of single column 11 ems Size of type 5½ point

Number of insertions 2 Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 12, 1971

Title _____
Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
Allen County }

Personally appeared me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is _____ CLERK of the

JOURNAL-GAZETTE
a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

February 3, 1971

February 10, 1971

Subscribed and sworn to before me this 12th day of February 1971

Notary Public

My commission expires March 8, 1974

ATTACH COPY OF
ADVERTISEMENT HERE

[illegible]

Common Council-City of Ft. Wayne

(Governmental Unit)

To.....NEWS-SENT INEL.....Dr.

Allen

County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

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Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

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173
1
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COMPUTION OF CHARGES

174 lines.....columns wide equals.....equivalent lines at .288¢
cents per line

\$ 50.11

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

\$ 50.11

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5 1/2 pointNumber of insertions 2Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 12, 1971Title Clerk

Legals

Notice is hereby given that on the 26th day of January, 1971, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session, did pass the following General Ordinance, to-wit: Bill No. G-104-70 (Amended).

AN ORDINANCE requiring licenses for outdoor driven theaters, providing for suspension of said license, prohibiting the exhibition of nude or semi-nude pictures on theater screens within view of public street or highway and providing penalties, and repealing all parts of ordinances in conflict herewith.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. It shall be unlawful for any person to construct, operate or maintain a theater within the City without having a valid license therefor in force and effect under the terms and provisions of this ordinance.

SECTION 2. It shall be unlawful for any licensee, ticket seller, ticket taker, motion picture machine operator or any other person connected with or employed by any licensee to show or exhibit all an outdoor driven theater, in the City, or to aid or assist in such exhibitions any motion picture, slide or other exhibit which is visible from any public street or highway in which bare buttocks or the bare female breasts of the human body are shown or in which strin-fetide, burlesque or nudist-type scenes constitute the main or primary material of such movie, slide or exhibit.

SECTION 3. "Outdoor drive-in theater" as used in this ordinance shall be an open lot, an open area, or other parcel of land, or part thereof, with its appurtenant facilities, devoted primarily to showing of moving pictures, motion pictures, or theatrical productions on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

SECTION 4. Application for license issued hereunder shall be made upon blank forms to be prepared and made available by the City Controller and shall state:

(a) The name and business address of the applicant and the address where

such outdoor drive-in theater is located or is proposed to be located.

(b) The number of automobiles and/or patrons which the outdoor drive-in theater is designed to accommodate.

(c) The hours of operation of said theater.

(d) The general character of the performances to be given.

SECTION 5. An application for license hereunder shall be accompanied by a license fee of \$25.00 to defray the expense of issuance of license, which fee shall be returned to the applicant if the license is not issued. Any license issued hereunder shall be renewable on the 1st day of January of each succeeding year after the date of issuance upon the payment of a renewal fee of \$10.00 to defray the expense of renewal of license, which fee shall be returned to the applicant if the license is not issued.

SECTION 6. Within fifteen days after receipt of an application as provided hereunder, the City Controller shall issue or renew a license hereunder when he finds:

(a) That the applicant is capable of operating the proposed business in a manner consistent with public safety; and (b) That the requirements of this ordinance and of all other governing laws and ordinances have been met.

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drive-in theater at which the violation of Section 2 of this ordinance occurred, for a period of thirty (30) days.

SECTION 9. Each word, phrase, paragraph and section of this ordinance is hereby declared to be an individual section or provision, and the holding of any word, phrase, paragraph or section to be void, ineffective or unconstitutional for any cause whatsoever, shall not be deemed to affect any other word, phrase, paragraph or section thereof or the application of any word, phrase, section or paragraph to circumstances or facts not connected with such holding.

SECTION 10. All ordinances or parts of ordinances in conflict herewith shall be void, and they hereby are, repealed to the extent of such conflict.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication as provided by law.

Read the third time in full and on motion by Tipton, seconded by Dunfin and duly adopted, placed on its passage. Passed by the following vote:

Ayes: eight
Adams, Dunfin, Fay, Geake, Nuckels, Robinson, Stelgerwald, Tipton.
Nays: none.

Absent one, to-wit: Councilman Rousseau.

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, on the 26th day of January, 1971.

Attest: (SEAL)
Fud G. Bonahoom, City Clerk.

Approved and signed by me this 27th day of January, 1971, at the hour of 1:28 o'clock P.M., E.S.T.

Harold S. Zeis, Mayor.

I, Fud G. Bonahoom, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above is a full, true, and complete copy of General Ordinance No. G-104-71 passed by the Com-

mon Council on the 26th day of January, 1971, and that said Ordinance was duly passed and approved by the Mayor on the 27th day of January, 1971, and new remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 27th day of January, 1971.

Fud G. Bonahoom, City Clerk.

ral circulation printed and published

FORT WAYNE, INDIANA

matter attached hereto is a true copy,

ne. 8, the dates of publication being

1971

1971

of.

February 19, 71

Notary Public

74

Form Prescribed by State Board of Accounts

Common Council—City of Ft. Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines	_____
Head number of lines	_____
Body number of lines	173
Tail number of lines	1
Total number of lines in notice	174

COMPUTATION OF CHARGES

174 lines, _____ columns wide equals _____ equivalent lines at .288¢ cents per line	\$ 50.11
Additional charge for notices containing rule or tabular work (50 per cent of above amount)	_____
Charge for extra proofs of publication (50 cents for each proof in excess of two)	_____
TOTAL AMOUNT OF CLAIM	\$ 50.11

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 12, 1971

Title _____
CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
Allen County }

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is _____ CLERK of the

JOURNAL-GAZETTE
a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time(s), the dates of publication being as follows:

February 3, 1971

February 10, 1971

Subscribed and sworn to before me this 12th day of February 1971

Notary Public

My commission expires March 8, 1974

ATTACH COPY OF
ADVERTISEMENT HERE

signals

Police is hereby given that on the 1 day of January, 1971, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session, did pass the following General Ordinance, to-wit:

GENERAL ORDINANCE NO. G-104-71

AN ORDINANCE regarding licenses for motor drive-in theaters, providing for the issuance of said licenses, prohibiting the exhibition of nude or semi-nude pictures in theaters screens within view of public thoroughfares, and providing penalties, including all parts of ordinances in effect hereunder.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. It shall be unlawful for any person to construct, operate or maintain a theater within the City without having a valid license therefor in force and effect under the terms and provisions of this ordinance.

SECTION 2. It shall be unlawful for any licensee, ticket seller, ticket taker, box office machine operator or any other person connected with or employed by any licensee to show or exhibit at an outdoor drive-in theater in the City, or aid or assist in such exhibitions any nude pictures, slides or other exhibit which is visible from any public street or highway in which bare buttocks or the bare sole breasts of the human body are shown or in which strip-tease, burlesque, multi-type scenes constitute the main pictorial material of such movie slide exhibit.

SECTION 3. "Outdoor drive-in theater" shall mean in this ordinance shall be an open lot, an open area, or other parcel of land, or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures, motion pictures, theatrical productions, on a solid motion picture, to pictures, motion pictures, or any outdoor theater.

SECTION 4. Application for license is to be prepared and made available to the City Controller and shall state: (a) The name and business address of the applicant and the address where

such outdoor drive-in theater is located or is proposed to be located.

(b) The number of automobiles and/or trailers which the outdoor drive-in theater is designed to accommodate.

(c) The hours of operation of said theater.

(d) The general character of the performance to be given.

SECTION 5. An application for license hereunder shall be accompanied by a fee of \$25.00 to defray the expense of issuance of license, which fee shall be returned to the applicant if the license is not issued. Any license issued hereunder shall be renewable on the 1st day of January of each succeeding year after the date of issuance upon the payment of a renewal fee of \$10.00 to defray the expense of renewal of license, which fee shall be returned to the applicant if the license is not issued.

SECTION 6. Within fifteen days after receipt of an application as provided herein, the City Controller shall issue or renew a license hereunder when he finds:

(a) That the applicant is capable of operating the proposed business in a manner consistent with public safety, and

(b) That the requirements of this ordinance and of all other governing laws and ordinances have been met.

SECTION 7. Any person violating Section 1 of this ordinance shall be punished by a fine not to exceed \$100.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment.

SECTION 8. Any person violating Section 2 of this ordinance shall be punished by a fine not to exceed \$100.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment.

SECTION 9. Any person violating Section 3 of this ordinance shall be punished by a fine not to exceed \$100.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment.

SECTION 10. Any person violating Section 4 of this ordinance shall be punished by a fine not to exceed \$100.00, or by imprisonment not to exceed six months, or by both such fine and such imprisonment.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication as provided by law.

drive-in theater at which the violation of Section 2 of this ordinance occurred, for a period of thirty (30) days.

SECTION 9. Each word, phrase, paragraph and section of this ordinance is hereby declared to be an individual section or provision, and the invalidity of any word, phrase, paragraph or section shall not, in any case, whatsoever, be deemed to affect any other word, phrase, paragraph or section thereof or the application of any word, phrase, section or paragraph to circumstances or facts not connected with such holding.

SECTION 10. All ordinances or parts of ordinances in conflict herewith shall be, and they hereby are, repealed to the extent of such conflict.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication as provided by law.

Herbert G. Tipton, Councilman.

Read the third time in full and on motion by Tipton, seconded by Dunfee and duly adopted, placed on its passage. Passed by the following vote:

Ayes: eight.

Alvin J. Johnston, Roy, Gieske, Nuckolls, Robinson, Steigewald, Tipton.

Nays: none.

Date 1-27-71.

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-104-71, on the 27th day of January, 1971.

Paul A. Steigewald, Presiding Officer.

ATTEST: (SEAL)

Fred G. Banahom, City Clerk.

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of January, 1971, at the hour of 8:30 o'clock A.M., E.S.

Paul A. Steigewald, Presiding Officer.

ATTEST: (SEAL)

Fred G. Banahom, City Clerk.

Approved and signed by me this 27th day of January, 1971, at the hour of 1:30 o'clock P.M., E.S.

Harold S. Zels, Mayor.

I, Fred G. Banahom, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true, and complete copy of General Ordinance No. G-104-71 passed by the Common Council on the 26th day of January, 1971, and that said Ordinance was duly signed, and approved by the Mayor on the 27th day of January, 1971, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 27th day of January, 1971.

Fred G. Banahom, City Clerk.

2-310.